

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

----- X
AKUA L. FRIMPONG, : Civil Action No.:
Plaintiff, :
: v.
: :
AL I/E. B. SENIOR HOUSING, LLC, :
SUNRISE SENIOR LIVING, INC.; John :
Doe I-X (said names being fictitious, true :
names presently unknown); ABC CORP. I- :
X (said names being fictitious, true names :
presently unknown), :
: Defendants.
----- X

NOTICE OF REMOVAL

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

PLEASE TAKE NOTICE that defendant AL I/E. B. Senior Housing,
LLC (incorrectly pleaded as AL I/E. B. Senior Housing, LLC) hereby removes the above
captioned action from the Superior Court of New Jersey, Middlesex County, to the
United States District Court for the District of New Jersey, pursuant to 28 U.S.C. § 1332
and 28 U.S.C. § 1441, et. seq. AL I/E. B. Senior Housing, LLC alleges as
follows:

1. A civil action has been commenced and is now pending in the Superior
Court of New Jersey, Middlesex County, entitled "AKUA L. FRIMPONG vs. AL I/E. B.
SENIOR HOUSING, LLC, SUNRISE SENIOR LIVING, INC.; John Doe I-X (said
names being fictitious, true names presently unknown); ABC CORP. I-X (said names

being fictitious, true names presently unknown)" (hereinafter the "Action"). The Action bears docket number MID-L-7467-15.

2. A copy of the summons and complaint, filed on December 21, 2015, is attached as **Exhibit 1**, and is hereby incorporated into this Notice of Removal.

3. Defendant Sunrise Senior Living, LLC f/k/a Sunrise Senior Living, Inc. (hereinafter "SSL, LLC") served its answer on February 3, 2016. A copy of SSL, LLC's answer is attached as **Exhibit 2**, and is hereby incorporated into this Notice of Removal.

4. Plaintiff thereafter filed a motion seeking leave to file an amended complaint to add AL I/E Senior Housing LLC as a defendant on February 10, 2016. A copy of the motion is attached as **Exhibit 3**, and is hereby incorporated into this Notice of Removal.

5. The state court granted the motion to amend the complaint on March 4, 2016. A copy of the order is attached as **Exhibit 4**, and is hereby incorporated into this Notice of Removal.

6. By motion of March 21, 2016, Plaintiff sought to file a Second Amended Complaint (*see Exhibit 5*). By order of April 15, 2016, Plaintiff's motion was granted.
(See Order of 4/15/16, Exhibit 6)

7. On April 28, 2016, Plaintiff filed a Second Amended Complaint, substituting defendant AL I/E Senior Housing LLC for AL I/E. B. Senior Housing, LLC. A copy of the Second Amended Complaint is attached as **Exhibit 7**, and is hereby incorporated into this Notice of Removal.

8. Defendant SSL, LLC served its Answer to the Second Amended Complaint on May 18, 2016. A copy of SSL, LLC's answer is attached as **Exhibit 8**, and is hereby incorporated into this Notice of Removal.

9. On May 20, 2016, defendant SSL, LLC served plaintiff with a Request for Admissions, which sought admissions as to the amount of damages in controversy, as well as Plaintiff's state of citizenship (*see* SSL, LLC's Request for Admissions, **Exhibit 9**).

10. Plaintiff served answers to Request for Admissions on or about June 1, 2016, admitting that the "matter in controversy in this lawsuit exceeds the sum or value of \$75,000, exclusive of interest and cost" (*see* Response to Request for Admissions, **Exhibit 10**, and Request for Admissions, **Exhibit 9**, at item 2). Plaintiff further admitted that she lives in the state of New Jersey and is a citizen of the state of New Jersey (*id.* at items 3-5).

11. The Action was previously removed to this Court by SSL, LLC, and was pending under case number 3:16-cv-03917. By order of an order of October 24, 2016, the Action was remanded to state court. (*See* Order of 10/24/16, **Exhibit 11**; Opinion of 10/24/16, **Exhibit 12**; Letter to state court clerk regarding remand, **Exhibit 13**).

12. By way of correspondence dated October 14, 2016, AL I/East Brunswick Senior Housing, LLC received from Plaintiff's counsel a copy of the Summons and Second Amended Complaint. (*See* Letter of 10/14/16, **Exhibit 14**)

13. Thirty days have not passed since defendant AL I/East Brunswick Senior Housing, LLC received a copy of the Second Amended Complaint.

14. This Court has original jurisdiction over the Action under 28 U.S.C. § 1332 and the Action may be removed, and is removed, to this Court by AL I/East Brunswick Senior Housing, LLC, pursuant to 28 U.S.C. § 1441.

15. Diversity jurisdiction pursuant to 28 U.S.C. § 1332 is based upon the action involving a matter in controversy exceeding the “sum or value of \$75,000, exclusive of interest and costs,” and being between “citizens of different States.”

16. Plaintiff **Akua L. Frimpong** is a resident and citizen of **New Jersey** (*see Response to Request for Admissions, Exhibit 10, and Request for Admissions, Exhibit 9, at items 3-5*). Plaintiff is a citizen of a state that is different from defendants AL I/East Brunswick Senior Housing, LLC and SSL, LLC.

17. Defendant **AL I/East Brunswick Senior Housing LLC** is a Delaware limited liability company with its principal place of business in Kentucky. The sole member of AL I/East Brunswick Senior Housing, LLC is AL One Investments, LLC, a Delaware limited liability company with its principal place of business in Kentucky. The sole member of AL One Investments, LLC is SZR US Investments, LLC, a Delaware limited liability company with its principal place of business in Kentucky. The sole member of SZR US Investments, LLC is Ventas SSL Holdings, Inc., a Delaware corporation with its principal place of business in Kentucky. Accordingly, AL I/East Brunswick Senior Housing, LLC is a citizen of both **Delaware** and **Kentucky**.

18. Defendant **SSL, LLC** is a Delaware limited liability company with its principal place of business in Virginia. The sole member of SSL, LLC is Red Fox

Holding Corporation, a Delaware corporation with its principal place of business in Virginia. Accordingly, SSL, LLC is a citizen of both **Delaware** and **Virginia**.

19. As the above demonstrates, the Action is between citizens of different states for purposes of 28 U.S.C. § 1332 and 28 U.S.C. § 1441.

20. Plaintiff admitted that the amount in controversy exceeds \$75,000 in its response to request for admissions (*see* Response to Request for Admissions, **Exhibit 10**, and Request for Admissions, **Exhibit 9**, at item 2). Moreover, in deciding the motion by Plaintiff to remand the Action to the state court, it was judicially determined that the \$75,000 monetary threshold was satisfied. (Opinion of 10/24/16, at 9 (“[T]he interrogatory answers state on their face that Plaintiff’s claimed damages exceed \$75,000.”), **Exhibit 12**) Accordingly, the amount in controversy requirement of 28 U.S.C. § 1332 is satisfied.

21. **SSL, LLC consents to removal by the later-served defendant**, pursuant to 28 U.S.C. § 1446(b)(2). This notice of removal is filed with the unanimous consent of defendants who have been served with the Second Amended Complaint.

22. By reason of the foregoing, the Action may be removed to this Court pursuant to 28 U.S.C. § 1441.

23. Written notice of the filing of this notice of removal and a true and complete copy of this notice of removal will be served upon Plaintiff’s counsel as required by 28 U.S.C. § 1441(d).

24. A true and complete copy of this notice of removal will be filed with the Clerk of the Superior Court of New Jersey, Middlesex County, as required by 28 U.S.C. § 1441(d).

WHEREFORE, AL I/East Brunswick Senior Housing, LLC prays that this Action be removed from the Superior Court of New Jersey, Middlesex County, to the United States District Court for the District of New Jersey, and that the United States District Court for the District of New Jersey issue such orders and process as are necessary to preserve its jurisdiction over this matter.

Date: November 1, 2016

Respectfully submitted,

By: s/ Rafael Vergara
Rafael Vergara, Esq.
White and Williams LLP
The Legal Center, One Riverfront Plaza
1037 Raymond Boulevard, Suite 230
Newark, New Jersey 07102
Phone: 201-368-7200
E-mail: vergarar@whiteandwilliams.com
*Attorneys for defendants Sunrise Senior Living,
LLC, f/k/a Sunrise Senior Living, Inc. and AL I/East
Brunswick Senior Housing, LLC*